

REMARKS

Applicants thank the Examiner for determining that claims 6-17 are free from the prior art. After amendment, claims 6-18 are currently pending in the application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. In order to advance prosecution of the claims found to be free of the art, Claim 6 has been rewritten into independent format to include the limitations of claim 5. Claim 18 has been amended to depend from claim 6. Claim 5 has been cancelled. Applicants believe that these claim amendments, which merely import limitations found in previously pending claims, are proper and comply with the requirements under 37 C.F.R. § 1.116(b) for claim amendments after final rejection. Thus, applicants respectfully requests the Examiner enter the amendments in their entirety.

In the Office Action, claim 5 and claim 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weyrauch et al. Although applicants disagree with the Examiner that Weyrauch et al. makes these two claims of the current patent application obvious, for the purpose of furthering prosecution of this application, claim 5 has been cancelled and claim 18 has been amended to depend from claim 6. In light of these amendments, applicants respectfully requests that the Examiner withdraw the obviousness rejection and allow the claims to issue in their current amended format.

On page 3 of the Office Action, the Examiner rejected claims 5, 6, and 18 under the judicially created doctrine of obviousness-type double patenting. The Examiner cited claim 4 of U.S. Patent No. 6,474,181 as the issue. As claim 5 has been cancelled, the double patenting issue only applies to claim 6 and claim 18. As noted in the Office Action, a Terminal Disclaimer may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground.

Enclosed is a timely filed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) and 37 C.F.R. § 3.73(b). It is respectfully submitted that the Terminal Disclaimer submitted herewith overcomes the rejection of claim 6 and claim 18. Therefore, applicants

respectfully requests that the Examiner withdraw the rejection of claim 6 and claim 18 based on nonstatutory obviousness-type double patenting and allow the current claims to issue. In view of the foregoing remarks and the Terminal Disclaimer submitted herewith, reconsideration and withdrawal of the rejections to the claims in the application based on nonstatutory obviousness-type double patenting is respectfully requested. However, it should be noted that the filing of the enclosed Terminal Disclaimer should not be construed as an admission by applicants that the rejection of claim 6 or claim 18 under the judicially created doctrine of obviousness-type double patenting is appropriate.

CONCLUSION

In view of the above remarks and the Terminal Disclaimer submitted herewith, it is respectfully submitted that all rejections have been overcome and this application is in condition for allowance. Early notice to this effect is earnestly solicited. Examiner Raevis is invited to telephone the undersigned at the number listed below if the Examiner believes such would be helpful in advancing the application to issuance.

Respectfully submitted,

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